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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

March 24, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Island of Hawaii

Consent to Assign Grant of Easement Identified as General Lease No. S-4227, SWVP Keauhou L.L.C., Assignor, to KBH, Inc., Assignee, Kahaluu, North Kona, Hawaii, Tax Map Key: 3rd/ 7-8-13: 42.

APPLICANT:

SWVP Keauhou L.L.C., as Assignor, to KBH, Inc., a Hawaii corporation, whose business and mailing address is 78-6740 Makolea Street, Kailua-Kona, Hawaii 96740, as Assignee.

LOCATION:

Portion of Government lands situated at Kahaluu, North Kona, Hawaii, identified by Tax Map Key: 3rd/ 7-8-13: 42, as shown on the attached map labeled Exhibit A.

AREA:

.128 acres or 5,557 square feet, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CHARACTER OF USE:

A non-exclusive surface easement for the following purpose: To construct, reconstruct, install, maintain, repair, replace and remove a building and appurtenances thereto over and upon the surface of said easement area.

TERM OF EASEMENT:

65 years, commencing on February 7, 1969 and expiring on February 6, 2034.

DCCA VERIFICATION:

ASSIGNOR:

Place of business registration confirmed: YES
Registered business name confirmed: YES
Good standing confirmed: YES

ASSIGNEE:

Assignee is a landowner and, as such, is not required to register with DCCA

REMARKS:

Due to certain Supreme Court rulings regarding shoreline boundaries, it was determined that foundation pilings that were installed in connection with the construction of the original Keauhou Beach Hotel were encroaching on a tidal pool area owned by the State of Hawaii. As a result, with the required Board approvals and by way of public auction, a grant of non-exclusive surface easement for the encroachment identified as General Lease S-4227 was issued to Island Holidays, Ltd. dated February 7, 1969.

In connection with a sale of the hotel in 1983, the subject easement was assigned to a Ho'omalehe, Ltd. and concurrently assigned to a Kona Joint Venture I, Ltd. A consent to both assignments dated August 31, 1983 was duly executed by the department. As a result of a bankruptcy case, the easement was then assigned to Azabu U.S.A. (Kona) Co., Ltd. in 1987. In connection with another sale of the hotel, the easement was again assigned from Azabu U.S.A. (Kona) Co., Ltd. to a SWVP Keauhou L.L.C. in 1998. The hotel property is again being sold by SWVP Keauhou L.L.C. to KBH, Inc.

The Assignor is currently in compliance with all terms and conditions of the grant of easement.

The Assignee has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

The consideration for the existing easement was a one-time payment and as such there are no outstanding rental reopening issues.

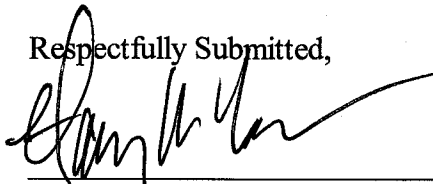
No agency or community comments were solicited as this is an assignment of an existing easement and is not a new disposition.

RECOMMENDATION:

That the Board consent to the assignment of the existing Grant of Easement identified as General Lease No. S-4227, from SWVP Keauhou L.L.C., as Assignor, to KBH, Inc., as Assignee, subject to the following:

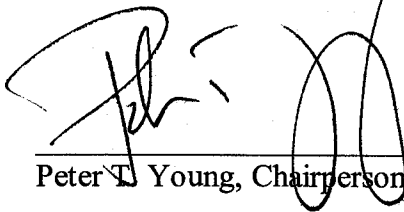
1. The standard terms and conditions of the most current consent to assignment of easement form, as may be amended from time to time;
2. Review and approval by the Department of the Attorney General; and
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Harry M. Yada
District Land Agent

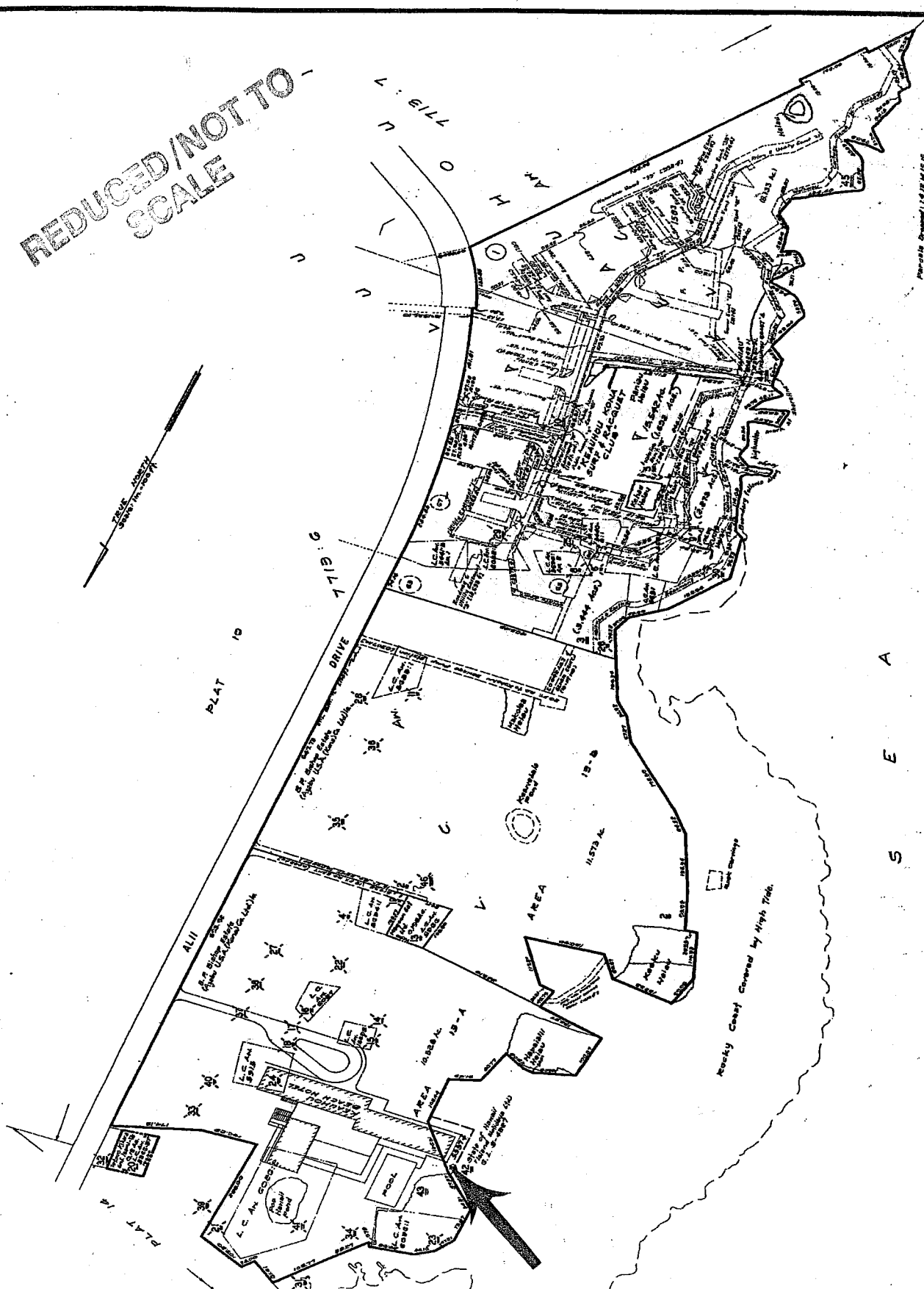
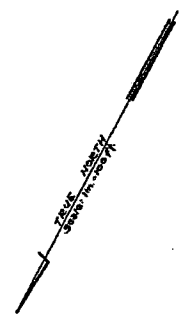
APPROVED FOR SUBMITTAL:



Peter T. Young, Chairperson

7-8-13 3ND DIS.

REDUCED/NOT TO
SCALE



DEPARTMENT OF TAXATION PROPERTY TECHNICAL OFFICE TAX MAPS BRANCH STATE OF HAWAII			
TAX MAP			
ZONE	SEC.	PLAT	
7	8	13	
THIRD TAXATION DISTRICT			
SCALE 1" = 100' FT.			

FOR PROPERTY ASSESSMENT PURPOSES
SUBJECT TO CHANGE

KAHALUO BEACH SECTION 14, KONA HAWAII

EXHIBIT A